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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,497	10/27/2000	Ronald Coleman	CITI0192-US	3524

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KING & SPALDING LLP (CITI CUSTOMER NUMBER)

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EXAMINER

AKINTOLA, OLABODE

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

11/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

09/697,497

Applicant(s)

COLEMAN, RONALD

Examiner

Olabode Akintola

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn. The previous office action is reverted to a Non-Final action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fogel et al. (US 6542905) ("Fogel") in view of Mathews, Jr. et al (US 6526358) ("Mathews").

Re claims 1, 7: Fogel teaches a method comprising: identifying at least one variable of the a system (col. 4, lines 20-21, col. 5, lines 24-30); determining a first hypothesis about the at least one variable (col. 4, lines 47-50); providing an initial probability of the first hypothesis about the

Art Unit: 3691

at least one variable (col. 10, lines 5-18 and 41-45); identifying a change of value in the at least one variable of the system (col. 4, lines 37-43, col. 5, lines 63-65); determining by probabilistic induction at least one cause of the change of value in the at least one variable of the system (Abstract, col. 6, line 14 thru col. 7, lines 32).

Fogel does not explicitly teach risk assessment system; and evaluating the initial probability of the first hypothesis based on the at least one cause. However, Fogel teaches applicability in financial service industry including risk factors for quality indicator or performance measure (col. 3, lines 14-30; col. 10, lines 31-33). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fogel to include risk assessment system. One would have been motivated to do so in order to identify data integrity issues.

Mathews teaches evaluating the initial probability of the first hypothesis based on the at least one cause (col. 6, lines 19-64). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Fogel to include this step. One would have been motivated to do so in order to determine the statistical accuracy of the hypothesis, thereby enhancing the functionality of the process.

Re claims 2 and 3: Fogel teaches input and output (figure)

Re claim 4: Fogel teaches external data (figure)

Re claim 5: Fogel teaches server (figure)

Re claim 6: Fogel teaches observable information (figure)

Re claims 8: Fogel teaches hypothesizing that the at least one variable has not changed (col. 4, lines 47-50)

Art Unit: 3691

Re claim 9: Fogel teaches providing a prior probability of the at least one variable and providing an initial conditional probability of the at least one variable (col. 10, lines 5-18 and 41-45)

Response to Arguments

Applicant's arguments filed 10/24/2007 regarding the teachings of Matthews reference have been fully considered but are not persuasive.

Applicant argued that Matthews does not evaluate the initial probability of a first hypothesis. Examiner respectfully disagrees. Fogel teaches all the elements of claim 1 except the evaluating step. As applicant rightly noted in the "Remarks" on page 7, Matthews teaches *determining* the highest *probability hypothesis* using the likelihood function evaluated using innovation vector (col. 6, lines 38-40). Examiner interprets the determination as evaluating probabilities associated with hypotheses to determine the highest probability hypothesis. It is not clear how this determination can be done without the evaluation.

Also, the claim in its present form recites "initial probability" and a "first hypothesis". The adjectives "initial" and "first" are considered non functional descriptive language since the steps would be performed the same regardless of the "type" of probability or hypothesis. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of Patentability, see *In re Gulack*, 703 F.2d 1381, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Heiman, V. B., (Auditors' assessment of the likelihood of analytical review explanations", University of Michigan, 1988) teaches *evaluating the probability* that a *hypothesized cause* is responsible for an analytical review fluctuation (See Abstract (Summary)).

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.

Art Unit: 3691

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



HANI M. KAZIMI
PRIMARY EXAMINER